

Qur'aanic Law of Inheritance

Qur'aanic Verse 2:180

كُتِبَ عَلَيْكُمْ إِذَا حَضَرَ أَحَدَكُمُ الْمَوْتُ إِن تَرَكَ خَيْرًا الْوَصِيَّةَ لِلْوَالِدَيْنِ
وَالْأَقْرَبِينَ بِالْمَعْرُوفِ حَقًّا عَلَى الْمُتَّقِينَ ﴿١٨٠﴾

180. It is prescribed for you that when death confronts any of you, the dying person, if he/she leaves behind any property, makes a will in favour of parents and relatives in a fair manner. Mandatory upon the pious!

This Verse from Surah Baqarah leaves no room for any doubt that making a will is a prescribed duty divinely imposed upon a believer. There is nothing in it to show that it is a temporary edict to be replaced by another Qur'aanic edict later. Except for saying that it should be made in a fair manner, the Verse obviously leaves a free hand to the person making a will to distribute his/her property, after his/her death, fairly commensurate with the financial positions of the inheritors. If a person has, say, two sons, the person is at liberty to give a bigger share to the son who is financially not in as good a position as the other. This is the divine Wisdom in giving a free hand to a human being in making a will.

Qur'aanic Verse 2:181

فَمَنْ بَدَّلَهُ بَعْدَمَا سَمِعَهُ فَإِنَّمَا إِثْمُهُ عَلَى الَّذِينَ يُبَدِّلُونَهُ إِنَّ اللَّهَ سَمِيعٌ
عَلِيمٌ ﴿١٨١﴾

181. Then if anyone changes it after hearing it as one did, the sin thereof shall certainly be on those who change it. Indeed, Allah hears, He knows!

This is a divine warning to all those who would fraudulently try to effect a change in a will a person has made. This also takes care of a case wherein a dying person makes a verbal will before some witnesses. The witnesses are duty-bound to record it in writing, honestly and correctly, as immediately soon thereafter as possible.

Qur'aanic Verse 2:182

فَمَنْ خَافَ مِنْ مُوَصِّ جَنَّمَا أَوْ إِثْمًا فَأَصْلَحَ بَيْنَهُمْ فَلَا
إِثْمَ عَلَيْهِ إِنَّ اللَّهَ غَفُورٌ رَحِيمٌ ﴿١٨٢﴾

182. And whoever apprehends any wrong or sin on the part of a testator and settles matters between them, then there is no sin on him/her. Indeed, Allah is Forgiving, Merciful!

This Verse takes due care of a case wherein a will makes a palpable injustice. It authorises the inheritors to change the will with mutual consent to remove any injustice therein.

Qur'aanic Verses 4:7 & 4:8

لِّلرِّجَالِ نَصِيبٌ مِّمَّا تَرَكَ الْوَالِدَانِ وَالْأَقْرَبُونَ وَلِلنِّسَاءِ نَصِيبٌ مِّمَّا
تَرَكَ الْوَالِدَانِ وَالْأَقْرَبُونَ مِمَّا قَلَّ مِنْهُ أَوْ كَثُرَ نَصِيبًا مَّفْرُوضًا ﴿٧﴾

7. Men and women shall have legal shares in what the parents and the near relatives leave behind, whether little or more.

وَإِذَا حَضَرَ الْقِسْمَةَ أُولُو الْقُرْبَىٰ وَالْيَتَامَىٰ وَالْمَسْكِينُ فَأَرْزُقُوهُمْ مِنْهُ
وَقُولُوا لَهُمْ قَوْلًا مَّعْرُوفًا ﴿٨﴾

8. And give something out of the property to the relatives, the orphans and the needy, present at the division of the property. And speak to them kind words.

Perhaps for the first time in human history, the right of women to shares in inherited property is recognised and documented here. The Verses also make it mandatory for women to be given due shares in any property left intestate by any owner thereof. Their shares are as prescribed in Verses 4:11, 4:12 and 4:176 quoted below. Other relatives, orphans and the needy are also required to be taken due care of.

Qur'aanic Verses 4:11, 4:12 & 4:176

يُوصِيكُمُ اللَّهُ فِي أَوْلَادِكُمْ لِلذَّكَرِ مِثْلُ حَظِّ الْأُنثَيَيْنِ فَإِن كُنَّ نِسَاءً فَوْقَ اثْنَتَيْنِ فَلَهُنَّ ثُلُثَا مَا تَرَكَ وَإِن كَانَتْ وَاحِدَةً فَلَهَا النِّصْفُ وَلِأَبَوَيْهِ لِكُلِّ وَاحِدٍ مِّنْهُمَا السُّدُسُ مِمَّا تَرَكَ إِن كَانَ لَهُ وَلَدٌ فَإِن لَّمْ يَكُن لَّهُ وَلَدٌ وَوَرِثَهُهُ آبَاؤُهُ فَلِلْأُمِّهِ الثُّلُثُ فَإِن كَانَ لَهُ إِخْوَةٌ فَلِلْأُمِّهِ السُّدُسُ مِمَّا بَعَدَ وَصِيَّةٍ يُوصَى بِهَا أَوْ دَيْنٍ ؕ وَأَبَاؤُكُمْ وَأَبْنَاؤُكُمْ لَا تَدْرُونَ أَيُّهُمْ أَقْرَبُ لَكُمْ نَفَعًا فَرِيضَةٌ مِّنَ اللَّهِ إِنَّ اللَّهَ كَانَ عَلِيمًا حَكِيمًا ﴿١١﴾

11. Allah commissions you concerning your children: The male shall have the equal of the shares of two females; and if there be only females two or more, they shall have two-thirds of what is left; and if the female is only one, she shall have the half; and one sixth for each of his parents, if the deceased has any child; and if he has no child and his two parents inherit him, then his mother shall have the third; and if the deceased has brothers, his mother shall have the sixth; after making provision for any will, the deceased may have made, or for any outstanding loan. Your parents and your children – you know not which of them are nearer to you in usefulness. This is an ordinance from Allah. Indeed, Allah is Knowledgeable, Wise!

﴿وَلَكُمْ بِصَفِّ مَا تَرَكَ أَرْوَاجِكُمْ إِن لَّمْ يَكُن لَّهُنَّ وَلَدٌ فَإِن كَانَ لَهُنَّ وَلَدٌ فَلَكُمْ الرُّبْعُ مِمَّا تَرَكَنَّ مِّنْ بَعْدِ وَصِيَّةٍ يُوصَى بِهَا أَوْ دَيْنٍ وَلَهُنَّ الرُّبْعُ مِمَّا تَرَكَتُمُ إِن لَّمْ يَكُن لَّكُمْ وَلَدٌ فَإِن كَانَ لَكُمْ وَلَدٌ فَلَهُنَّ الثُّمُنُ مِمَّا تَرَكَتُمُ مِّنْ بَعْدِ وَصِيَّةٍ تُوصُونَ بِهَا أَوْ دَيْنٍ وَإِن كَانَ رَجُلٌ يُورَثُ كَلِيلَةً أَوْ أَمْرًا وَلَهُ أَحٌ أَوْ أُخْتُ فَلِكُلِّ وَاحِدٍ مِّنْهُمَا السُّدُسُ فَإِن كَانُوا أَكْثَرَ مِنْ ذَلِكَ فَهُمْ شُرَكَاءُ فِي الثُّلُثِ مِمَّا بَعَدَ وَصِيَّةٍ يُوصَى بِهَا أَوْ دَيْنٍ غَيْرِ مُضَارٍّ وَصِيَّةً مِّنَ اللَّهِ



وَاللَّهُ عَلِيمٌ حَلِيمٌ ﴿١٣﴾

12. And, for you, half of what your wives leave behind, if they have no child; and if they have any child, then for you a quarter of what they leave behind, after making a provision for any will that they might have made, or for any

outstanding loan. And for them a quarter, if you have no child; and if you have a child, then for them an eighth of what you leave behind, after making a provision for any will that you may make, or for any outstanding loan. And if the person, male or female, whose property is to be inherited, has left neither parents nor children behind, and he/she has only a stepbrother or a stepsister to inherit his/her property, then for either of them a sixth; and if there are more than these, they all share a third; after making a provision for any will that the deceased might have made, or for any outstanding loan, causing thereby no harm to anyone. This is a bequest from Allah. And Allah knows, and He cares.

يَسْتَفْتُونَكَ قُلِ اللَّهُ يُفْتِيكُمْ فِي الْكَلَالَةِ إِنْ أَمْرُوهُ هَلَكَ لَيْسَ لَهُ وَلَدٌ
 وَلَهُ أُخْتٌ فَلَهَا نِصْفُ مَا تَرَكَ وَهُوَ يَرِثُهَا إِنْ لَمْ يَكُنْ لَهَا وَلَدٌ فَإِنْ كَانَتَا
 أُثْنَتَيْنِ فَلَهُمَا الثُّلُثَانِ مِمَّا تَرَكَ وَإِنْ كَانُوا إِخْوَةً رِجَالًا وَنِسَاءً فَلِلذَّكَرِ
 مِثْلُ حَظِّ الْأُنثَيَيْنِ يُبَيِّنُ اللَّهُ لَكُمْ أَنْ تَضِلُّوا وَاللَّهُ بِكُلِّ شَيْءٍ عَلِيمٌ ﴿١٧٦﴾

176. They ask you for a legal decree. Say, “Allah gives you a decree concerning the person who has neither parents nor offspring. If it is a man that dies with no child, and he has a sister, she shall have half of what he leaves behind. – And he shall inherit her, if she has no child. – And if there are two sisters, they shall have two-thirds of what he leaves behind. And if there are siblings, both male and female, then the share of the male shall be equal to the shares of two females. Allah makes things clear to you, lest you err. And Allah knows all things.”

Verses 4:11 and 4:12 constitute the main part of the Law for distribution of intestate property. The repeated assertion therein that the shares prescribed are of the property left after payment of any loan taken by the deceased and after fulfilling the terms of any will made by him/her, makes it clear that these (the shares so prescribed) are of property for which no will has been made. The provisions of Verse 4:176 are by way of addendum to or clarification of that main part.

Conclusions

Let us now try to understand the implications of distributing an intestate property through representative examples:

1. **The case where the inheritors constitute father, mother, wife, two sons & three daughters:** Each parent gets one sixth of the property, and the wife gets one eighth. And $2/7^{\text{th}}$ share of the remaining property goes to each son while $1/7^{\text{th}}$ of it goes to every one of the 3 daughters. In the event of any of the parents or wife non-existing at the time of the death of the owner of the property, the distribution is to be done without taking into account the prescribed share of that predeceased relative. The shares among the offspring would continue to be on the basis of 2:1 for male and female respectively – irrespective of their actual number except when there are no sons at all. And if the deceased is a woman, the husband would get one fourth, the other parameters remaining the same.
2. **The case where the inheritors constitute father, mother, wife/husband, **no** sons & three daughters:** Here the positions of the parents and wife/husband remain the same as in case 1 above, but the 3 daughters would together get only $2/3^{\text{rd}}$ of the property remaining over after distribution of prescribed shares to parents and wife. If there are 2 daughters, their share, together, would also be $2/3^{\text{rd}}$ in view of Verse 4:12 read with Verse 4:176. And if there is only one daughter, she will get only half of what remains after giving the parents and wife/husband their shares. And the property still left over could be disposed of by distributing it among poor/needy relatives in the light of Verse 4:8.
3. **The case where the inheritors constitute father, mother, wife, no son & no daughter:** The wife shall have a quarter. Of the remaining, mother gets a sixth if the deceased has brothers – and a third if the deceased has no brothers – the rest going to the father. If no wife, the entire property gets distributed between father and mother in the same manner. If no father, mother and wife would get $1/3^{\text{rd}}$ and $1/4^{\text{th}}$ respectively – and if neither parent is living, wife gets $1/4^{\text{th}}$ – the rest going to other relatives and charity in terms of Verse 4:8. If the deceased is a woman, the husband gets half her property, the other parameters remaining the same.
4. **The case where there are no direct inheritors:** The direct inheritors are the parents, children and wife/husband. If none of these are living, brothers & sisters become the inheritors. If there are no sisters, brothers share the entire property. If both brothers and sisters are living, brother gets twice the share of a sister. And if there are no brothers, and only one sister living, she gets half the property, the rest going to other relatives,

the poor and the needy in terms of Verse 4:8. And if there are two or more sisters only, they share $2/3^{\text{rd}}$ of the property, the rest being disposed of in terms of Verse 4:8. And in case the deceased one is a woman, her living brother gets the entire property.

5. **The case where there are no direct inheritors, nor has the deceased any brothers & sisters:** $1/6^{\text{th}}$ of the property goes to a single stepbrother or to a single stepsister. And if there be more than one of them, they all share $1/3^{\text{rd}}$ of the property, the rest being distributed in terms of Verse 4:8.

Although I have tried my best, I am conscious I may not have been exhaustive in covering all possible cases within the representative examples given above. Readers are welcome to give their feedback.

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